

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SCOTT AND WHITE HEALTH PLAN
and SHA, LLC d/b/a FIRSTCARE

Plaintiffs,

v.

ACTIAN CORPORATION,

Defendant.

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Case No: 6:21-cv-1137

NOTICE OF REMOVAL OF ACTION

PLEASE TAKE NOTICE: Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Actian Corporation (“Defendant”), hereby removes this civil action from the 169th District Court of Bell County, Texas, to this Court. In support of this Notice of Removal, Defendant states as follow:

1. State Court Action. Plaintiffs filed a civil action on October 1, 2021, in Bell County District Court, 169th Judicial District Court, Cause No. 21DCV327696 (the “State Court Action”). Plaintiffs bring claims for breach of contract and declaratory judgment. Plaintiffs did not demand a trial by jury.

2. Removal is Timely. Plaintiffs purported to serve Defendant a copy of the Original Petition and the citation by certified mail, which the Bell County District Clerk mailed on October 14, 2021, and which were received by Defendant’s agent on October 18, 2021. This notice of removal is timely filed pursuant to 28 U.S.C. § 1446(b) because Defendant is removing this action within 30 days of service of process and Defendant’s receipt of the pleading and citation.

3. This Court Embraces the Place Where the Action Was Filed. Bell County District Court, where Plaintiffs commenced this action, is located in the judicial district of the United States

District Court for the Western District of Texas, Waco Division. Pursuant to 28 U.S.C. § 1441(a), this is the proper Court for removal of this action.

4. Jurisdiction Exists. This Court has subject matter jurisdiction over this civil action pursuant to 28 U.S.C. § 1332, and this action may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446, because it is an action between diverse parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

- a. Diverse Parties. There is complete diversity of citizenship between the parties. Defendant is a corporation incorporated in Delaware and with its principal place of business in Palo Alto, California. *See also* Plaintiffs' Petition ¶ 3. Actian is a citizen of Delaware and California; it is not a citizen of Texas. Based on filings with the Texas Secretary of State, Plaintiff Scott and White Health Plan is a corporation that is incorporated in Texas, and its principal place of business is in Temple, Texas. *See also* Plaintiffs' Petition ¶ 2.¹ Based on filings with the Texas Secretary of State, Plaintiff SHA, LLC d/b/a FirstCare is a Texas limited liability company with its principal place of business in Temple, Texas, and none of its members are citizens of California or Delaware. *See also* Plaintiffs' Petition ¶¶ 2, 4. Rather, SHA, LLC's members are Texas citizens. Accordingly, diversity of citizenship exists pursuant to 28 U.S.C. § 1332(a) because this action is between citizens of different states. The parties were citizens of different states at the time the Petition was filed in the State Court Action. In addition, no defendant is a Texas citizen.

¹ Scott and White Health Plan does not appear to be an actual plaintiff, as none of the Petition's claims appear to be brought on behalf of Scott and White Health Plan. In any event, even if it was intended that it be named as a plaintiff, Scott and White Health Plan is a citizen of Texas, and not a citizen of Delaware or California.

- b. Amount in Controversy. The amount in controversy in this action exceeds \$75,000, exclusive of interest and costs. In Plaintiffs' Petition, they allege that they seek monetary relief between \$200,000 and \$1,000,000. *See* Plaintiffs' Petition ¶ 1.

5. Process and Papers. Pursuant to 28 U.S.C. § 1446(a), attached as Exhibit A is a copy of the docket sheet in the State Court Action and a copy of each document filed in the State Court Action. There are no other pleadings and/or orders served on Defendant in the case.

6. Notice. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be served upon Plaintiffs. A notice of filing of this Notice of Removal is being filed with the Clerk of the Bell County District Court, contemporaneously with the filing of this Notice of Removal, in accordance with 28 U.S.C. § 1446(d) and is attached hereto and incorporated by reference as Exhibit B (Notice without attachments).

7. Preservation of Objections and Defenses. This removal is without prejudice or waiver of any defense (under Federal Rule of Civil Procedure 12 or otherwise) or right of Defendant to seek dismissal or transfer of this matter (including without limitation based on defenses relating to service or personal jurisdiction or venue). Furthermore, Defendant does not concede that Plaintiffs have pleaded any claims upon which relief can be granted.

8. No previous application or request has been made for removal.

CONCLUSION

For the foregoing reasons, this action is properly removable under 28 U.S.C. §§ 1332, 1441, and 1446. The matter entitled *Scott and White Health Plan and SHA, LLC d/b/a FirstCare v. Actian Corporation*, Bell County District Court, 169th Judicial District Court, Cause No. 21DCV327696 is removed to the United States District Court for the Western District of Texas, Waco Division, and Defendant respectfully requests that this court assume full jurisdiction over

this action as provided by law. Defendant further requests any such other relief to which it may be justly entitled.

Dated: November 4, 2021

Respectfully submitted,

REEVES & BRIGHTWELL LLP

/s/ Ryan Pierce

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of November 2021, the foregoing document was served via electronic mail and regular U.S. mail on the following counsel of record for Plaintiffs:

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/s/ Ryan Pierce

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